THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc. Writ Petition (M/S) No. 263 of 2006
(Under Article 226/227 of the Constitution of India)

Mohd. Irfan S/O Shri Phool Mohammad
R/O Jalalpur Data, Pargana Bhagwanpur,
Tehsil Roorkee, District Haridwar.

… **Petitioner.**

Versus

1. Sayed S/O Rafik R/O village Jalapur Data,
   Pargana Bhagwanpur, Tehsil Roorkee,
   District Haridwar.
2. Smt. Kamlesh Saini, W/O Dhirendar, Pardhan,
   Gaon Sabha R/O Jalapur Data.
3. State of Uttaranchal through Collector Haridwar,
4. Civil Judge (Jr. Div.) Roorkee.

… Respondents.

Sri Nagesh Agarwal, learned counsel for the petitioner.
Sri Nand Prasad, Learned Standing Counsel for the respondent No. 4.

Dated March 23, 2006.

PC:
(Hon'ble B.S. Verma, J.)

Heard learned counsel.

The petitioner has filed the present Writ Petition to issue a writ, order or direction in the nature of mandamus commanding the Incharge or Link Officer of respondent no.4 to decide the application paper no. 20-C2 of the petitioner moved under Section 151 C.P.C. for interim injunction.

Relevant facts of the case are that in Writ Petition (M/S) No. 174 of 2006, Mohd. Irfan Vs. Sayed and others, this Court vide order dated 1.3.2006, directed the respondent No.4, i.e. Civil Judge (Jr.Div.) Roorkee to decide the application under Order 39, Rules 1 and 2 C.P.C. read with Section 151 C.P.C. moved by the petitioner in O.S. No. 11 of 2006 on merits expeditiously within a period of fifteen days from the date of production of certified copy of the

order. The grievance of the petitioner is that the respondent no.4 had gone on long leave, therefore, the said application could not be disposed of so far.

In the facts and circumstances of the case, to meet the ends of justice, I direct that in case the Presiding Officer of regular civil court of respondent no.4 is still on leave, then the application of the petitioner-plaintiff for interim injunction (paper no. 28-C2) shall be decided by the Link Officer or the Incharge of that court on merit within a period of fifteen days from the date of production of certified copy of this order. In case, the regular court of respondent no.4 is functioning the said application shall be decided by the respondent no.4 in accordance with law within the aforesaid period.

With the aforesaid observation, the Writ Petition is disposed of finally.

A certified copy of this order be issued to the learned counsel for the petitioner today on payment of usual charges.

(B.S. Verma, J.)

RCP